IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO: 7035 and 7058 of 1996

WRIT PETITION NO.7035 of 1996

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Between:

M/s Barium Chemicals Ltd., Ramavaram PO, Kothagudem
Khammam District rep.by its Commercial Officer
Mr.Umesh Bhatnagar

..... PETITIONER

AND

1 The Authority Under Payment of Wages Act / Asst. Labour

Commissioner , Khammam
2 The Asst. Labour Officer, and Inspector Under Payment of Wages Act
Kothagudem, Khammam Dist
3 Barium Chemicals Staff and Workers Union bearing Regd.No.E.149
Kothagudem, Khammam Dist rep.by its Gen.Secretary Ch.Jagadish

(R3 is impleaded as per Court order dated 18-08-1999 in

WPMP No.21370 of 1999)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for records and quash the ex parte orders made in IA.No.1 of 1995 in PW.No.6 of 1995, Dt.19/08/1995 and 08/11/1995 on the file of the Authority under Payment of

Wages Act / Asst. Labour Commissioner, by issuing a writ of certiorari or any other appropriate writ or order or direction or directions.

WRIT PETITION NO : 7058 of 1996

Between:

M/s Barium Chemicals Ltd., Ramavaram PO, Kothagudem
Khammam District rep.by its Commercial Officer
Mr.Umesh Bhatnagar

..... PETITIONER

AND

1 The Authority Under Payment of Wages Act / Asst. Labour

Commissioner , Khammam
2 The Asst. Labour Officer, and Inspector Under Payment of Wages Act
Kothagudem, Khammam Dist
3 Barium Chemicals Staff and Workers Union bearing Regd.No.E.149
Kothagudem, Khammam Dist rep.by its Gen.Secretary Ch.Jagadish

(R3 is impleaded as per Court order dt.29-12-2003 in WPMP No.

33429 of 2003)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for records and quash the ex parte orders made in IA.No.1 of 1995 in PW.No.6 of 1995, Dt.08/11/1995 on the file of the Authority under Payment of Wages Act / Asst. Labour Commissioner, by issuing a writ of certiorari or any other appropriate writ or order or direction or directions as the Court may deem fit and proper.

Counsel for the Petitioners: MR.P.NAGESWAR SREE

Counsel for the Respondent Nos.1 to 3: G.P. FOR WELFARE

MR.A.CHANDRAIH NAIDU

MR.A.K.JAYA PRAKASH RAO

The Court made the following:

C O M M O N O R D E R:

Since these writ petitions arise out of the same proceedings and the parties involved are one and the same, they are taken up

together for disposal.

Petitioner in these writ petitions is the Management, which seeks to assail the proceedings initiated against it under the provisions of the Payment of Wages Act at the instance of the third respondent claiming certain wages.

The case of the petitioner, in brief, is that at the relevant point of time no proper opportunity was given to it to contest the matter and even to cross-examine the witnesses. Therefore, the petitioner has filed an application-I.A.No.1 of 1995 seeking to reopen the matter. However, the same was dismissed and consequently main order was passed. Against the dismissal of the I.A., the W.P.No.7035 of 1996 is filed and against the main order W.P.No.7058 of 1996 is filed.

Having heard the counsel on either side and on perusal of the material on record, it is seen that the petitioner is only seeking an opportunity to contest the matter, participate in the proceedings and cross examine the witnesses produced on other side. It is now well established that the rules of procedure should be liberally interpreted and proper opportunity should be provided to both the parties with a view to have a complete say for the witnesses on either side to have a decision on merits, rather than denying opportunity to any party, which would only help the authority to come to a correct conclusion. Any such denial would have a worst impact on the ultimate conclusion, which the Court/authority can come to. In the circumstances, I feel it appropriate to provide reasonable opportunity to both sides.

The impugned orders are, therefore, set aside and the writ petitions are accordingly allowed. The matter is remanded to the first respondent for fresh disposal, on merits, in accordance with law, after giving notice and opportunity to both sides. No costs.

(**B. PRAKASH RAO, J**)

Date: 25-11-2004

ghn

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the twenty fifth day of November, Two thousand and Four.

To

1 The Authority Under Payment of Wages Act / Asst. Labour

Commissioner , Khammam

2 The Asst. Labour Officer, and Inspector Under Payment of Wages Act
Kothagudem, Khammam Dist

3 The Gen.Secretary Ch.Jagadish Barium Chemicals Staff and

Workers Union bearing Regd.No.E.149
Kothagudem, Khammam Dist.

4 Two C.Cs. to G.P. for Welfare, High Court Buildings,

High Court of A.P., Hyderabad, (OUT).

5 Two C.D. Copies.